IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 17675 of 2006

Date of decision: 11.10.2007

M/s Service Steel Industries

..... Petitioner

Versus

State of Punjab and others

..... Respondents

Coram: Hon'ble Mr. Justice M.M.Kumar
Hon'ble Mr. Justice Ajay Kumar Mittal

Present: Mr. Sandeep Goyal, Advocate,
for the petitioner.

Mr. Amol Rattan Singh, Addl.A.G. Punjab,
for respondent No. 1.

M.M.Kumar, J.

This petition filed under Article 226 of the Constitution prays for quashing order dated 05.10.2006 (P-7) on the ground that the principles of natural justice had been violated because the order has been passed on a date on which no proceedings were pending before the Designated Officer nor the petitioner was called to attend the same.

In sub-para (vii) of para-16 of the writ petition, the averments made are that on 05.10.2006, when no proceedings were pending, the impugned order was passed. It has also been pointed out that at the time of hearing on 25.09.2006, the Designated Officer had observed that the sales made by those eight dealers are verified as the purchases of the petitioner. He has further observed that fresh notices were required to be issued to eight dealers in order to make an assessment. However, the Designated Officer had adjourned the proceedings sine die but has taken up the matter on 05.10.2006 at the back of the petitioner.

In reply to the corresponding para, the factual position has not been denied. The only issue raised is that another writ petition namely

10731 of 2006 was pending for hearing on 09.10.2006 and, therefore, the Designated Officer, after conducting oral inquiries, has passed the order disallowing the claim of the petitioner in respect of those eight dealers. It is alleged that purchases made by those eight dealers were not from genuine sellers, who have not paid the tax to the State.

Learned State counsel agrees with the aforementioned factual position and states that the impugned order dated 05.10.2006 (P-7) may be set aside by granting liberty to the Designated Officer to pass a fresh order after affording opportunity of hearing to the petitioner.

The aforementioned statement made by learned State counsel has been readily accepted by the counsel for the petitioner.

In view of the above, order dated 05.10.2006 (P-7) is set aside with liberty to the Designated Officer to pass a fresh order after complying with the principles of natural justice in accordance with law.

The writ petition stands disposed of in the above terms.

(M.M.KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

October 11, 2007
pj